



General Assembly

January Session, 2001

Raised Bill No. 1220

LCO No. 3987

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING BOATING SAFETY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 15-133 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) The rules prescribed by this section shall apply on all state and
4 federal waters.

5 (b) No person shall use a vessel in a manner [which] that
6 unreasonably or unnecessarily interferes with free and proper
7 navigation. Anchoring under a bridge, in a narrow channel or in a
8 congested water not designated as an anchorage area [shall be deemed
9 to be] is such interference, except in case of emergency.

10 (c) No person shall alter, deface or remove any capacity information
11 label affixed to any vessel.

12 (d) No person shall operate a vessel or engage in water skiing (1)
13 while [under the influence of intoxicating liquor or any drug, or both.
14 For the purposes of this subsection and sections 15-140l or 15-140n, a
15 person shall be considered to be under the influence of intoxicating

16 liquor if the ratio of alcohol in the blood of such person at the time of
 17 the alleged offense, as determined by methods prescribed in
 18 subsection (a) of section 15-140r, is ten-hundredths of one per cent or
 19 more of alcohol, by weight. No person arrested for a violation of this
 20 subsection shall operate a vessel or engage in water-skiing upon the
 21 waters of this state for a twenty-four-hour period after such arrest]
 22 under the influence of intoxicating liquor or any drug, or both, or (2)
 23 while such person has an elevated blood alcohol content. For the
 24 purposes of this section and sections 15-140l and 15-140n, as amended
 25 by this act, "elevated blood alcohol content" means (A) a ratio of
 26 alcohol in the blood of such person that is ten-hundredths of one per
 27 cent or more of alcohol, by weight, (B) if such person has been
 28 convicted of a violation of this subsection, a ratio of alcohol in the
 29 blood of such person that is seven-hundredths of one per cent or more
 30 of alcohol, by weight, or (C) if such person is under twenty-one years
 31 of age, a ratio of alcohol in the blood of such person that is two-
 32 hundredths of one per cent or more of alcohol, by weight.

33 (e) In any prosecution for a violation of subdivision (1) of subsection
 34 (d) of this section, evidence respecting the amount of alcohol in the
 35 defendant's blood or urine at the time of the alleged offense, as shown
 36 by a chemical analysis of the defendant's blood, breath or urine,
 37 otherwise admissible under subsection (d) of this section, shall be
 38 admissible only at the request of the defendant.

39 ~~[(e)]~~ (f) No person shall operate a vessel or engage in any activity
 40 contrary to the regulations ~~[of]~~ adopted by the commissioner.

41 ~~[(f)]~~ (g) No person shall moor a vessel to, obstruct, remove, damage
 42 or destroy any navigation aid or any device used to mark a restricted
 43 area.

44 ~~[(g)]~~ (h) Any person who violates the provisions of subsection (d) of
 45 this section shall: ~~[be fined not less than one hundred dollars nor more~~
 46 ~~than five hundred dollars. Any person who violates any of the~~
 47 ~~provisions of subsection (b), (c) or (f) of this section shall be fined not~~

48 less than twenty-five dollars nor more than two hundred dollars] (1)
 49 For conviction of a first violation, (A) be fined not less than five
 50 hundred dollars nor more than one thousand dollars, and (B) be (i)
 51 imprisoned not more than six months, forty-eight consecutive hours of
 52 which may not be suspended or reduced in any manner, or (ii)
 53 imprisoned not more than six months, with the execution of such
 54 sentence of imprisonment suspended entirely and a period of
 55 probation imposed requiring as a condition of such probation that
 56 such person perform one hundred hours of community service, as
 57 defined in section 14-227e, and (C) have such person's vessel operating
 58 privilege suspended for one year; (2) for conviction of a second
 59 violation within ten years of a prior conviction for the same offense,
 60 (A) be fined not less than one thousand dollars nor more than four
 61 thousand dollars, (B) be imprisoned not more than two years, one
 62 hundred twenty consecutive days of which may not be suspended or
 63 reduced in any manner, and sentenced to a period of probation
 64 requiring as a condition of such probation that such person perform
 65 one hundred hours of community service, as defined in section 14-
 66 227e, and (C) have such person's vessel operating privilege suspended
 67 for three years or until the date of such person's twenty-first birthday,
 68 whichever is longer; and (3) for conviction of a third and subsequent
 69 violation within ten years of a prior conviction for the same offense,
 70 (A) be fined not less than two thousand dollars nor more than eight
 71 thousand dollars, (B) be imprisoned not more than three years, one
 72 year of which may not be suspended or reduced in any manner, and
 73 sentenced to a period of probation requiring as a condition of such
 74 probation that such person perform one hundred hours of community
 75 service, as defined in section 14-227e, and (C) have such person's
 76 operating privilege permanently revoked upon such third offense. Any
 77 person who violates the provisions of subsection (c), (f) or (g) of this
 78 section shall be fined not less than one hundred dollars and not more
 79 than five hundred dollars. Any person who violates the provisions of
 80 subsection [(f)] (g) of this section shall have committed an infraction.

81 (i) The suspension of a vessel operating privilege imposed under

82 subsection (h) of this section shall take effect immediately upon
83 expiration of any period in which an appeal of any conviction under
84 subsection (d) of this section may be taken, provided if an appeal is
85 taken, the suspension shall be stayed during the pendency of such
86 appeal. If the suspension takes effect, the defendant shall return, not
87 later than the second business day after the suspension takes effect, by
88 personal delivery or first class mail, the operating privilege
89 documentation, or any certificate issued to the defendant by the
90 commissioner as a condition of operating a vessel on the waters of the
91 state, to the Department of Environmental Protection.

92 (j) Any person who violates the provisions of subsection (b) of this
93 section shall be fined not more than two hundred dollars.

94 (k) (1) A record shall be kept by each court of original jurisdiction of
95 any conviction relating to the operation of a vessel. A summary of such
96 record, with a statement of the number of the operator's safe boating
97 certificate or certificate of personal watercraft operation and the
98 vessel's certificate of number or certificate of decal, shall, within five
99 days after such conviction, forfeiture or any other disposition or nolle,
100 be transmitted to the commissioner by such court. Each court shall
101 report each conviction under subsection (d) of this section to the
102 commissioner. The commissioner shall suspend the vessel operating
103 privilege of the person reported as convicted for the period of time
104 required by subsection (h) of this section.

105 (2) The operating privilege of a person found guilty under
106 subsection (d) of this section who is under eighteen years of age shall
107 be suspended by the commissioner for the period of time set forth in
108 subsection (h) of this section, or until such person attains the age of
109 eighteen years, whichever period is longer.

110 Sec. 2. Section 15-140l of the general statutes is repealed and the
111 following is substituted in lieu thereof:

112 (a) A person commits the offense of reckless operation of a vessel in

113 the first degree while under the influence when, while under the
114 influence of intoxicating liquor or any drug, or both, [he] or while such
115 person has an elevated blood alcohol level content, such person
116 operates a vessel at such speed or maneuvers a vessel in such a manner
117 as to result in (1) death or serious physical injury to another person, or
118 (2) damage to property in excess of [one] two thousand dollars.

119 (b) Any person guilty of reckless operation of a vessel in the first
120 degree while under the influence shall be fined not less than one
121 thousand five hundred dollars nor more than [one] five thousand
122 dollars or imprisoned not more than [one year] three years, or both.

123 Sec. 3. Section 15-140n of the general statutes is repealed and the
124 following is substituted in lieu thereof:

125 (a) A person commits the offense of reckless operation of a vessel in
126 the second degree while under the influence when, while under the
127 influence of intoxicating liquor or any drug, or both, [he] or while such
128 person has an elevated blood alcohol level content, such person
129 operates a vessel at such speed or maneuvers a vessel in such a manner
130 as to endanger the life, limb or property of another person.

131 (b) Any person guilty of reckless operation of a vessel in the second
132 degree while under the influence shall be fined not less than [two
133 hundred fifty] seven hundred dollars nor more than one thousand five
134 hundred dollars or imprisoned not more than [six] eleven months, or
135 both.

136 Sec. 4. Section 15-140o of the general statutes is repealed and the
137 following is substituted in lieu thereof:

138 (a) Any officer authorized to enforce the provisions of sections 15-
139 129, 15-133, 15-133b, 15-133c, 15-140e to 15-140u, inclusive, 15-154 and
140 15-156 who arrests an operator for a violation of [subsection]
141 subsections (d) and (e) of section 15-133 or section 15-140k, 15-140l or
142 15-140n may take the vessel operated in such violation into [his] such

143 officer's custody and shall cause the same to be taken to and stored in a
 144 suitable place. There shall be no liability attached to such officer for
 145 any damages to such vessel while in [his] such officer's custody. All
 146 charges necessarily incurred by such officer in the performance of such
 147 duty shall be a lien upon such vessel. The owner or keeper of any
 148 marina or other place where such vessel is stored shall have a lien
 149 upon the same for [his] the storage charges and if such vessel has been
 150 stored for a period of not less than sixty days, such owner or keeper
 151 may sell the same for storage charges owed thereon, provided a notice
 152 of intent to sell shall be sent to the Commissioner of Environmental
 153 Protection, the Commissioner of Motor Vehicles, and the owner of
 154 such vessel, if known, five days before the sale of such vessel. If the
 155 owner is unknown, such sale shall be advertised by such marina
 156 owner or keeper in a newspaper published or having a circulation in
 157 the town where such marina or other place is located three times,
 158 commencing at least five days before the sale. The proceeds of such
 159 sale, after deducting the amount due such marina owner or keeper and
 160 all expenses of the officer who placed such vessel in storage, shall be
 161 paid to the owner of such vessel or [his] such owner's legal
 162 representatives, if claimed by [him] such owner or them at any time
 163 within one year from the date of such sale. If such balance is not
 164 claimed within said period, it shall escheat to the state.

165 (b) Any vessel [being] that is operated by a person who is arrested
 166 for a violation of section 15-140n, [shall] as amended by this act, in
 167 connection with such operation, or for a violation of section 15-140l, as
 168 amended by this act, after being involved in a boating accident, may be
 169 impounded for [twenty-four] a minimum of forty-eight hours after the
 170 arrest. Any vessel involved in a boating accident that results in death,
 171 serious physical injury, a missing person or property damage in excess
 172 of one thousand dollars may be seized for the collection of evidence
 173 and held until the investigation of the boating accident or court
 174 proceedings are concluded. The trailer utilized by the operator to
 175 transport the vessel may also be impounded to facilitate transport and
 176 handling of the vessel.

177 Sec. 5. Section 15-140q of the general statutes is repealed and the
178 following is substituted in lieu thereof:

179 (a) Any person who operates a vessel or engages in water skiing in
180 this state shall be deemed to have consented to a chemical analysis of
181 such person's blood, breath or urine, and if such person is a minor,
182 such person's parent or parents or guardian shall also be deemed to
183 have given their consent.

184 [[a)] (b) If any such person, having been placed under arrest for: (1)
185 [violating] Violating subsection (b) of section 53-206d; [, or for] (2)
186 operating a vessel upon the waters of this state while under the
187 influence of intoxicating liquor or any drug, or both; [,] (3) water skiing
188 upon the waters of this state while under the influence of intoxicating
189 liquor or any drug, or both; (4) operating a vessel upon the waters of
190 this state or water skiing upon the waters of this state while such
191 person has an elevated blood alcohol content, or while such person's
192 ability to operate such vessel or engage in water skiing is impaired by
193 the consumption of intoxicating liquor and thereafter, after being
194 apprised of [his] such person's constitutional rights, having been
195 requested to submit to a blood, breath or urine test at the option of the
196 police officer, having been afforded a reasonable opportunity to
197 telephone an attorney prior to the performance of such test and having
198 been informed that such person's vessel operating privilege or the
199 certificate issued by the commissioner as a condition of operating a
200 vessel shall be suspended in accordance with the provisions of this
201 section if such person refuses to submit to such test or if such person
202 submits to such test and the results of such test indicate that such
203 person has an elevated blood alcohol content and that evidence of any
204 such refusal shall be admissible in accordance with subsection (d) of
205 section 15-140r, as amended by this act, and may be used against [him]
206 such person in any criminal prosecution, refuses to submit to the
207 designated test, the test shall not be given; provided, if [the] such
208 person refuses or is unable to submit to a blood test, the police officer
209 shall designate the breath or urine test as the test to be taken. The

210 police officer shall make a notation upon the records of the police
211 department that such officer informed such person that such person's
212 operating privilege or certificate issued by the commissioner as a
213 condition of operating a vessel would be suspended if such person
214 refused to submit to such test or if such person submitted to such test
215 and the results of such test indicated that such person has an elevated
216 blood alcohol content.

217 [(b) The provisions of this section shall not apply to any person
218 whose physical condition is such that, according to competent medical
219 advice, such test would be inadvisable.]

220 (c) If the person arrested refuses to submit to such test or analysis,
221 or submits to such test or analysis commenced within two hours of the
222 time of operation, and the results of such test or analysis indicate that
223 at the time of the alleged offense such person had an elevated blood
224 alcohol content, the police officer, acting on behalf of the
225 Commissioner of Environmental Protection, shall immediately revoke
226 the operating privilege of such person for a twenty-four-hour period
227 and shall issue a temporary operating privilege form to such person
228 valid for the period commencing twenty-four hours after issuance and
229 ending thirty-five days after the date such person received notice of
230 such person's arrest by the police officer. The police officer shall
231 prepare a written report of the incident and shall mail the report
232 together with a copy of the completed temporary operating privilege
233 form, any certificate taken into possession and a copy of the results of
234 any chemical test or analysis, to the Department of Environmental
235 Protection within three business days. The report shall be made on a
236 form approved by the commissioner and shall be subscribed and
237 sworn to under penalty of false statement as provided in section 53a-
238 157b by the police officer before whom such refusal was made or who
239 administered or caused to be administered such test or analysis. If the
240 person arrested refused to submit to such test or analysis, the report
241 shall be endorsed by a third person who witnessed such refusal. The
242 report shall set forth the grounds for the officer's belief that there was

243 probable cause to arrest such person for operating such vessel or
244 engaging in water skiing while under the influence of intoxicating
245 liquor or any drug, or both, or while such person has an elevated blood
246 alcohol content, or while the ability of such person to operate such
247 vessel or engage in water skiing was impaired by the consumption of
248 intoxicating liquor, and shall state that such person refused to submit
249 to such test or analysis when requested by such police officer or that
250 such person submitted to such test or analysis, commenced within two
251 hours of the time of operation, and the results of such test or analysis
252 indicated that such person at the time of the alleged offense had an
253 elevated blood alcohol content.

254 [(c) The state shall pay the reasonable charges of any physician who,
255 at the request of a municipal police department, takes a blood sample
256 for purposes of a test under this section.]

257 (d) If the person arrested submits to a blood or urine test at the
258 request of the police officer, and the specimen requires laboratory
259 analysis in order to obtain the test results, and if the test results
260 indicate that such person has an elevated blood alcohol content, the
261 police officer, immediately upon receipt of the test results, shall notify
262 and submit to the commissioner the written report required pursuant
263 to subsection (c) of this section.

264 (e) Upon receipt of such report, the commissioner shall suspend any
265 certificate issued by said commissioner that is required to operate a
266 vessel or the operating privilege of such person effective as of a date
267 certain, such date shall be no later than thirty-five days after the date
268 such person received notice of such person's arrest by the police
269 officer. Any person whose certificate or operating privilege is
270 suspended in accordance with this subsection shall be entitled to a
271 hearing before the commissioner to be held prior to the effective date
272 of the suspension. The commissioner shall send a suspension notice to
273 such person informing such person that the certificate or operating
274 privilege is suspended and shall specify the date of such suspension

275 and that such person is entitled to a hearing prior to the effective date
276 of the suspension and may schedule such hearing by contacting the
277 Department of Environmental Protection not later than seven days
278 after the date of mailing of such suspension notice.

279 (f) If such person does not contact the department to schedule a
280 hearing, the commissioner shall affirm the suspension contained in the
281 suspension notice for the appropriate period specified in subsection (i)
282 of this section.

283 (g) If such person contacts the department to schedule a hearing, the
284 department shall assign a date, time and place for the hearing, which
285 date shall be prior to the effective date of the suspension. At the
286 request of such person or hearing officer and upon a showing of good
287 cause, the commissioner may grant one continuance for a period not to
288 exceed ten days. If a continuance is granted, the commissioner shall
289 extend the validity of the temporary operating privilege issued
290 pursuant to subsection (b) of this section for a period not to exceed the
291 period of such continuance. The hearing shall be limited to a
292 determination of the following issues: (1) Whether the police officer
293 had probable cause to arrest the person for operating the vessel or
294 engaging in water skiing while under the influence of intoxicating
295 liquor or drugs, or both, or while such person has an elevated blood
296 alcohol content, or while the ability of such person to operate such
297 vessel or engage in water skiing was impaired by the consumption of
298 intoxicating liquor; (2) whether such person was placed under arrest;
299 (3) whether such person (A) refused to submit to such test or analysis,
300 or (B) submitted to such test or analysis, commenced within two hours
301 of the time of operation, and the results of such test or analysis
302 indicated that at the time of the alleged offense that such person had
303 an elevated blood alcohol content; and (4) whether such person was
304 operating the vessel or engaging in water skiing. At the hearing, the
305 results of the test or analysis shall be sufficient to indicate the ratio of
306 alcohol in the blood of such person at the time of operation, except that
307 if the results of an additional test, administered pursuant to section 15-

308 140r, as amended by this act, indicate that the ratio of alcohol in the
309 blood of such person is twelve-hundredths of one per cent or less of
310 alcohol, by weight, and is higher than the results of the first test,
311 evidence shall be presented that demonstrates that the test results and
312 analysis thereof accurately indicate the blood alcohol content at the
313 time of operation. The fees of any witness summoned to appear at the
314 hearing shall be the same as provided in section 52-260.

315 (h) If, after such hearing, the commissioner finds on any one of said
316 issues in the negative, the commissioner shall reinstate such certificate
317 or operating privilege. If, after such hearing, the commissioner does
318 not find on any one of said issues in the negative or if such person fails
319 to appear at such hearing, the commissioner shall affirm the
320 suspension contained in the suspension notice for the appropriate
321 period specified in subsection (i) of this section. The commissioner
322 shall render a decision at the conclusion of such hearing or send a
323 notice of the decision by certified mail to such person not later than
324 thirty-five days from the date of notice of such person's arrest by the
325 police officer or, if a continuance is granted, not later than forty-five
326 days from the date such person received notice of such person's arrest
327 by the police officer. The notice of such decision sent by certified mail
328 to the address of such person as shown by the records of the
329 commissioner shall be sufficient notice to such person that such
330 person's certificate or operating privilege is reinstated or suspended.
331 Unless a continuance of the hearing is granted pursuant to subsection
332 (g) of this section, if the commissioner fails to render a decision within
333 thirty-five days from the date that such person received notice of such
334 person's arrest by the police officer, the commissioner shall reinstate
335 such person's certificate or operating privilege, provided
336 notwithstanding such reinstatement, the commissioner may render a
337 decision not later than two days thereafter suspending such certificate
338 or operating privilege.

339 (i) The commissioner shall suspend the operator's certificate or
340 operating privilege, and revoke the temporary operating privilege

341 issued pursuant to subsection (c) of this section, of a person who does
 342 not contact the department to schedule a hearing under subsection (e)
 343 of this section, who fails to appear at such hearing, or against whom,
 344 after a hearing, the commissioner holds pursuant to subsection (g) of
 345 this section. Such suspension shall be as of the effective date contained
 346 in the suspension notice or the date the commissioner renders a
 347 decision, whichever is later, for a period of: (1) (A) Except as provided
 348 in subparagraph (B) of this subdivision, ninety days if such person
 349 submitted to a test or analysis and the results of such test or analysis
 350 indicated that at the time of the alleged offense that such person had
 351 an elevated blood alcohol content, or (B) one hundred twenty days if
 352 such person submitted to a test or analysis and the results of such test
 353 or analysis indicated that the ratio of alcohol in the blood of such
 354 person was sixteen-hundredths of one per cent or more of alcohol, by
 355 weight, or (C) six months if such person refused to submit to such test
 356 or analysis; (2) if such person has previously had such person's
 357 privilege suspended under this section, (A) except as provided in
 358 subparagraph (B) of this subdivision, nine months if such person
 359 submitted to a test or analysis and the results of such test or analysis
 360 indicated that at the time of the alleged offense that such person had
 361 an elevated blood alcohol content, (B) ten months if such person
 362 submitted to a test or analysis and the results of such test or analysis
 363 indicated that the ratio of alcohol in the blood of such person was
 364 sixteen-hundredths of one per cent or more of alcohol, by weight, and
 365 (C) one year if such person refused to submit to such test or analysis;
 366 and (3) if such person has two or more times previously had such
 367 person's certificate or operating privilege suspended under this
 368 section, (A) except as provided in subparagraph (B) of this subdivision,
 369 two years if such person submitted to a test or analysis and the results
 370 of such test or analysis indicated that at the time of the alleged offense
 371 that such person had an elevated blood alcohol content, (B) two and
 372 one-half years if such person submitted to a test or analysis and the
 373 results of such test or analysis indicated that the ratio of alcohol in the
 374 blood of such person was sixteen-hundredths of one per cent or more

375 of alcohol, by weight, and (C) three years if such person refused to
376 submit to such test or analysis.

377 (j) Notwithstanding the provisions of subsections (b) to (i),
378 inclusive, of this section, any police officer who obtains the results of a
379 chemical analysis of a blood sample taken from an operator of a vessel
380 involved in an accident who suffered or allegedly suffered physical
381 injury in such accident shall notify the commissioner and submit to the
382 commissioner a written report if such results indicate that at the time
383 of the alleged offense such person had an elevated blood alcohol
384 content, and if such person was arrested for a violation of subsection
385 (d) of section 15-133, subsection (l) of section 15-140 and section 15-
386 140n in connection with such accident. The report shall be made on a
387 form approved by the commissioner containing such information as
388 the commissioner prescribes and shall be subscribed and sworn under
389 penalty of false statement, as provided in section 53a-157b, by the
390 police officer. The commissioner shall, after notice and an opportunity
391 for hearing, which shall be conducted in accordance with chapter 54,
392 suspend the operating privilege of such person for a period of up to
393 ninety days, or, if such person has previously had such person's
394 operating privilege suspended under this section, for a period up to
395 one year. Each hearing conducted under this section shall be limited to
396 a determination of the following issues: (1) Whether the police officer
397 had probable cause to arrest the person for operating a vessel or
398 engaging in water skiing while under the influence of intoxicating
399 liquor or drugs, or both, or while such person has an elevated blood
400 alcohol content, or while the person's ability to operate the vessel or to
401 engage in water skiing was impaired by the consumption of
402 intoxicating liquor; (2) whether such person was placed under arrest;
403 (3) whether such person was operating the vessel or engaged in water
404 skiing; (4) whether the results of the analysis of the blood of such
405 person indicate that such person had an elevated blood alcohol
406 content; and (5) whether the blood sample was obtained in accordance
407 with conditions for admissibility as set forth in subsection (b) of
408 section 15-140r. If, after such hearing, the commissioner finds on any

409 issue in the negative, the commissioner shall not impose a suspension.
410 The fees of any witness summoned to appear at the hearing shall be
411 the same as provided by the general statutes for witnesses in criminal
412 cases.

413 (k) The provisions of this section shall apply with the same effect to
414 the refusal by any person to submit to an additional chemical test as
415 provided in subdivision (5) of subsection (a) of section 15-140r, as
416 amended by this act.

417 (l) The provisions of this section do not apply to any person whose
418 physical condition is such that, according to competent medical advice,
419 such test would be inadvisable.

420 (m) The state shall pay the reasonable charges of any physician who,
421 at the request of a municipal police department, takes a blood sample
422 for purposes of a test under the provisions of this section.

423 (n) For the purposes of this section, "elevated blood alcohol content"
424 means: (1) A ratio of alcohol in the blood of such person that is ten-
425 hundredths of one per cent or more of alcohol, by weight, (2) if such
426 person has been convicted of a violation of subsection (e) of section 15-
427 133, a ratio of alcohol in the blood of such person that is seven-
428 hundredths of one per cent or more of alcohol, by weight, or (3) if such
429 person is under twenty-one years of age, a ratio of alcohol in the blood
430 of such person that is two-hundredths of one per cent or more of
431 alcohol, by weight.

432 (o) The commissioner may adopt regulations, in accordance with
433 chapter 54, to implement the provisions of this section.

434 Sec. 6. Section 15-140r of the general statutes is repealed and the
435 following is substituted in lieu thereof:

436 [(a) In any criminal prosecution for violation of section 15-140l or
437 15-140n, subsection (a) of section 15-133 or]

438 (a) Except as provided in subsection (d) of this section, in any
 439 criminal prosecution for the violation of subsection (d) of section 15-
 440 133, sections 15-140l and 15-140n and subsection (b) of section 53-206d,
 441 evidence respecting the amount of alcohol or drug in the defendant's
 442 blood or urine at the time of the alleged offense, as shown by a
 443 chemical analysis of the defendant's breath, blood or urine shall be
 444 admissible and competent provided: (1) The defendant was afforded a
 445 reasonable opportunity to telephone an attorney prior to the
 446 performance of the test and consented to the taking of the test upon
 447 which such analysis is made; (2) a true copy of the report of the test
 448 result was mailed to or personally delivered to the defendant within
 449 twenty-four hours or by the end of the next regular business day, after
 450 such result was known, whichever is later; (3) the test was performed
 451 by or at the direction of a law enforcement officer according to
 452 methods and with equipment approved by the Department of Public
 453 Health and was performed [by a person certified or recertified for such
 454 purpose by said department or recertified by persons certified as
 455 instructors by the Commissioner of Public Health. If a blood test is
 456 taken, it shall be on a blood sample taken by a person licensed to
 457 practice medicine and surgery in this state, a qualified laboratory
 458 technician, an emergency medical technician II or a registered nurse] in
 459 accordance with the regulations adopted under subsection (b) of this
 460 section; (4) the device used for such test was checked for accuracy [at
 461 the beginning of each workday and no later than the end of each
 462 workday by a person certified by the Department of Public Health] in
 463 accordance with the regulations adopted under subsection (b) of this
 464 section; (5) an additional chemical test of the same type was performed
 465 [and the device was checked for accuracy by a person certified or
 466 recertified by the Department of Public Health,] at least thirty minutes
 467 after the initial test was performed or, if requested by the police officer
 468 for reasonable cause, an additional chemical test of a different type
 469 was performed to detect the presence of a drug or drugs other than or
 470 in a addition to alcohol, provided the results of the initial test shall not
 471 be inadmissible under this subsection if reasonable efforts were made

472 to have such additional test performed in accordance with the
 473 conditions set forth in this subsection and such additional test was not
 474 performed or was not performed within a reasonable time, or the
 475 results of such additional test are not admissible for failure to meet a
 476 condition set forth in this subsection; and (6) evidence is presented
 477 [which demonstrates that the test results and the analysis thereof
 478 accurately reflect] that the test was commenced within two hours of
 479 operation of the vessel. In any prosecution under this section it shall be
 480 a rebuttable presumption that the results of such chemical analysis
 481 establish the ratio of alcohol in the blood of the defendant at the time
 482 of the alleged offense, except that if the results of the additional test
 483 indicate that the ratio of alcohol in the blood of such defendant is
 484 twelve-hundredths of one per cent or less of alcohol, by weight, and is
 485 higher than the results of the first test, evidence shall be presented that
 486 demonstrates that the test results and the analysis thereof accurately
 487 indicate the blood alcohol content at the time of the alleged offense.

488 (b) The Commissioner of Public Health shall ascertain the reliability
 489 of each method and type of device offered for chemical testing and
 490 analysis purposes of blood, of breath and of urine and certify those
 491 methods and types which [he] said commissioner finds suitable for use
 492 in testing and analysis of blood, [testing] breath and [testing] urine,
 493 respectively, in this state. [He] The Commissioner of Public Safety,
 494 after consultation with the Commissioner of Public Health, shall adopt
 495 regulations governing the conduct of chemical tests, the operation and
 496 use of chemical test devices and the training [, certification and annual
 497 recertification of operators of such devices as he] and certification of
 498 operators of such devices and the drawing or obtaining of blood,
 499 breath or urine samples as said commissioner finds necessary to
 500 protect the health and safety of persons who submit to chemical tests
 501 and to insure reasonable accuracy in testing results. Such regulations
 502 shall not require recertification of a police officer solely because such
 503 officer terminates such officer's employment with the law enforcement
 504 agency for which certification was originally issued and commences
 505 employment with another such agency.

506 (c) If a person is charged with a violation of subsection (d) of section
507 15-133 the charge may not be reduced, nolle or dismissed unless the
508 prosecuting authority states in open court [his] such prosecutor's
509 reasons for the reduction, nolle or dismissal.

510 (d) In any criminal prosecution for a violation of subsection (d) of
511 section 15-133 or section 15-140l or 15-140n, evidence that the
512 defendant refused to submit to a blood, breath or urine test requested
513 in accordance with section 15-140q shall be admissible provided the
514 requirements of subsection (a) of said section have been satisfied. If a
515 case involving a violation of subsection (d) of section 15-133 or section
516 15-140l or 15-140n is tried to a jury, the court shall instruct the jury as
517 to any inference that may or may not be drawn from the defendant's
518 refusal to submit to a blood, breath or urine test.

519 Sec. 7. Section 15-154 of the general statutes is repealed and the
520 following is substituted in lieu thereof:

521 (a) Any harbor master, deputy harbor master, conservation officer,
522 special conservation officer or state police officer and any municipal
523 police officer, any special police officer appointed under sections 29-18
524 and 29-19 or members of the volunteer police auxiliary force
525 established under section 29-22, any town marine officers appointed
526 under section 15-154a and certified by the commissioner for marine
527 police duty and any lake patrolman appointed under section 7-151b
528 may enforce the provisions of this chapter and chapter 446k. In the
529 enforcement of this chapter, such officer may arrest, without previous
530 complaint and warrant, any person who fails to comply with the
531 provisions of this chapter. Failure to appear in court pursuant to such
532 arrest, unless excused by the court or the state's attorney or assistant
533 state's attorney, shall constitute sufficient cause for the suspension by
534 the Commissioner of Motor Vehicles of the boat registration of the boat
535 involved for not more than thirty days or until the matter is resolved
536 by the court, whichever is sooner.

537 (b) When engaged in the enforcement of this chapter and chapter

538 446k such officer shall have the authority to stop and board any vessel
539 which is under way or which is moored on the waters of this state for
540 the purposes of (1) examining decals, certificates and other documents,
541 (2) inspecting safety equipment and waste disposal systems, (3)
542 determining if the operation of such vessel exceeds the noise levels
543 established in subsection (b) of section 15-129, (4) searching when he
544 has probable cause to believe that any provision of any law of this state
545 or any rule or regulation of the Department of Environmental
546 Protection relating to boating or water pollution has been violated, (5)
547 determining compliance with sections 15-140l and 15-140n and
548 [subsection] subsections (d) and (e) of section 15-133, as amended by
549 this act, when [he] such officer has probable cause to believe said
550 section or subsection has been violated, and (6) making arrests. No
551 person operating a vessel shall refuse to stop his vessel or, if sea
552 conditions make stopping in that area unsafe, refuse to take his vessel
553 to a designated area after being requested or signalled to do so by an
554 authorized law enforcement officer. Any person operating a vessel
555 who refuses to stop or refuses to take his vessel to the designated area
556 shall have committed an infraction. Any person, when signalled to
557 stop by an officer in a law enforcement vessel using an audible signal
558 device or flashing blue lights, who operates his vessel in disregard of
559 such signal so as to (A) interfere with or endanger the operation of the
560 law enforcement vessel or any other vessel, (B) endanger or cause
561 damage to property or person or (C) increase speed in an attempt to
562 escape or elude such law enforcement officer shall be fined not less
563 than one hundred dollars nor more than five hundred dollars for a first
564 offense and for any subsequent offense shall be fined not less than five
565 hundred dollars nor more than one thousand dollars. Proof of the
566 registration number of the vessel shall be prima facie evidence in any
567 prosecution that the owner was the operator.

568 (c) The Commissioner of Environmental Protection shall publish an
569 enforcement manual, conduct training and educational sessions, serve
570 as liaison between the enforcement groups and the Superior Court and
571 shall be generally responsible for the overall coordination of

572 enforcement.

Statement of Purpose:

To improve the ability of law enforcement officials to prosecute a violation of the state's Boating Under the Influence law.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]